

December 3, 2015

CBP-2016-009363

Adolfo Flores
BuzzFeed News
7323 Beverly Blvd.
Los Angeles, CA 90036

Dear Mr. Flores:

This is the final response to your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP), seeking information, regarding the U.S. Border Patrol's records pertaining to "roving patrol" operations in the San Diego and El Centro Sector, construed to include any field operations involving roving vehicle or pedestrian stops by Border Patrol agents (including any allegedly consensual encounters), as well as any related records held by CBP or other agencies within DHS for these two Border Patrol sectors. Specifically you were seeking all records from January 2011 through the present and should include the following:

1. Internal memoranda, legal opinions, guidance, directives, criteria, standards, rules, instructions, advisories, training materials and presentations, and any other written policies or procedures pertaining to roving patrol operations;
2. Internal memoranda, legal opinions, guidance, directives, criteria, standards, rules, instructions, advisories, training materials and presentations, any other written policies or procedures pertaining to all searches and seizures (including arrests) made pursuant to roving patrol operations;
3. Audits, reports, statistical data and analysis, quotas, targets, goals, and performance standards, measures, or reviews, and all documents related to any incentives or bonus programs relating to roving patrol operations in San Diego Sector and El Centro Sector;
4. Organizational charts, diagrams, or schematics pertaining to roving patrol operations in San Diego Sector and El Centro Sector, including charts reflecting agency leadership structures or individuals involved in decision-making related to roving patrol operations;
5. Organizational charts, diagrams, or schematics pertaining to roving patrol operations in San Diego Sector and El Centro Sector, including charts reflecting agency leadership structures or individuals involved in decision-making related to roving patrol operations;
6. Communications, agreements, or any other records related to state or local law enforcement involvement in roving patrol operations in San Diego Sector and El Centro Sector;

7. Records regarding any individual questioned, stopped, searched, detained, and/or arrested in roving patrol operations in San Diego Sector and El Centro Sector;
8. For each of the years 2011, 2012, 2013, and 2014, for both San Diego Sector and El Centro Sector, records relating to and/or containing information sufficient to show:
 - a. The total number of roving patrol stops made by U.S. Border Patrol agents;
 - b. The total number of roving patrol stops resulting in searches;
 - c. The total number of roving patrol stops resulting in arrest, as well as the disposition of each such arrest (e.g. Notice to Appear; Voluntary Return; criminal charges and resolution thereof, etc.);
 - d. The citizenship of each individual stopped in the course of a roving patrol;
 - e. The citizenship of each individual searched in the course of a roving patrol;
 - f. The citizenship of each individual arrested in the course of a roving patrol;
 - g. The apparent race or ethnicity of each individual stopped in the course in the course of a roving patrol
 - h. The apparent race or ethnicity of each individual searched in the course in the course of a roving patrol;
 - i. The apparent race or ethnicity of each individual arrested in the course in the course of a roving patrol;
 - j. The location of each roving patrol stop. (To the extent material exists that document such information in various formats e.g. databases or other compilations or information based on, for example, city, county, sector, and/or zip code, such materials are included in this Request.
 - k. The location of each roving patrol stop resulting in a search.
 - l. The location of each roving patrol stop resulting in any arrest.
 - m. The type of each roving patrol stop (e.g. entry onto private land, pedestrian encounter, vehicle stop, or public transportation stop (train, trolley, bus, etc..));
 - n. The type of each roving patrol stop resulting in a search (e.g. entry onto private land, pedestrian encounter, vehicle stop, or public transportation stop (train, trolley, bus, etc..));
 - o. The type of each roving patrol stop resulting in arrest (e.g. entry onto private land, pedestrian encounter, vehicle stop, or public transportation stop (train, trolley, bus, etc..));
 - p. The date of each roving patrol stop;
 - q. The date of each roving patrol stop resulting in a search;
 - r. The date of each roving patrol stop resulting in any arrest;
 - s. The number of agents involved in each roving patrol stop;
 - t. The number of agents involved in any search in the course of a roving patrol, and whether a search involved on or more canines;
 - u. The number of agents involved in any arrest in the course of a roving patrol;
 - v. The basis for all stops resulting in arrest, including stops initiated by any state or local law enforcement agency;
 - w. The basis for all stops not resulting in arrest, including stops initiated by any state or local law enforcement agency;

- x. The Border Patrol agent(s) and/or CBP officer(s) involved in determining whether reasonable suspicion or probable causes existed to justify each stop, and whether the reviewing agent(s)/officer(s) was or were the same as the agent(s)/officer(s) who initiated the stop under review;
 - y. The date, time, and location of any roving patrol that was the subject of any complaint, internal or external investigation, civil litigation, and/or a motion to suppress; the basis of the complaint, investigation, or civil or criminal court proceedings; and the status and/or outcome of any such complaint, investigation, or civil criminal court proceedings
9. Any complaints received by Border Patrol, CBP, or DHS official or agency from any person, organization, agency, tribal government, consular official, or any other entity, whether verbal or written, related to roving patrol operations in San Diego Sector and/or El Centro Sector, as well as any communications regarding and responses to any such complaints; AND
10. All disciplinary records resulting from any alleged agent misconduct or alleged violation of Border Patrol, CBP, and/or DHS rules or regulations related to roving patrol operations in San Diego Sector and/or El Centro Sector.

A search of CBP databases produced a total of 5,244 pages of records responsive to your request. CBP has determined that the records are partially releasable, pursuant to Title 5 U.S.C. § 552 (b)(2), (b)(6), (b)(7)(C) and (b)(7)(E).

Enclosed is 5,244 pages with certain information withheld as described below.

FOIA Exemption (b)(2) protects information related solely to the internal personnel rules and practices of an agency.

FOIA Exemption (b)(6) exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, driver license, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption (b)(7)(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional

recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate.

FOIA Exemption (b)(7)(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. CBP has determined that disclosure could reasonably be expected to risk circumvention of the law.

You have a right to appeal our withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: FOIA Appeals, Policy and Litigation Branch, U.S. Customs and Border Protection, 90 K Street, NE, 10th Floor, Washington, DC 20229-1177, following the procedures outlined in the DHS regulations at Title 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

This office may be reached at (202) 325-0150. Please notate file number CBP-2016-009363 on any future correspondence to CBP related to this request.

Sincerely,

A handwritten signature in cursive script, reading "Sharon R. Deshaud".

Government Information Specialist
Privacy and Diversity Office, Freedom of Information Acts Division

Enclosure(s)